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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/557,081	04/21/2000	Henry B. Strub	IR-022-C1	6596
21912	7590	11/30/2005	EXAMINER	
VAN PELT, YI & JAMES LLP 10050 N. FOOTHILL BLVD #200 CUPERTINO, CA 95014			TRAN, THAI Q	
			ART UNIT	PAPER NUMBER
			2616	

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/557,081	<b>Applicant(s)</b> STRUB ET AL.	
	<b>Examiner</b> Thai Tran	<b>Art Unit</b> 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7, 8, 10-14, 17-26, 29-31, 35-38, 41-49 and 51-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-5, 7-8, 10-14, 17-26, 29-31, 35-38, 41-49, and 5-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on Sept. 8, 2005 has been entered.

### ***Response to Arguments***

2. Applicant's arguments filed Sept. 8, 2005 have been fully considered but they are not persuasive.

Applicants argue that the category codes and keywords indicate the rating level of the segments of Abecassis do not define the newly added limitation "a confidence level that represents the certainty of the user that the marked recording data is the recording data that the user desired to mark".

In response the examiner respectfully disagrees. It is noted that the newly added limitation "a confidence level that represents the certainty of the user that the marked recording data is the recording data that the user desired to mark" can be broadly interpreted as the category codes and keywords (e.g. G, PG, PG-13) to video segments of Abecassis because the category codes and keywords shows the confidence level that represents the certainty of the user that the marked recording data is the recording data that the user desired to mark.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-5, 7-8, 10-11, 13-14, 17-21, 29-31, 35-36, 41, 44-49, and 51-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwoh et al (US 2002/0031331 A1) in view Abecassis ('814).

Regarding claim 1, Kwoh et al, as discussed in the last Final Office Action, discloses a recording unit (Fig. 2) for recording an event, comprising:

a data acquisition device (camera electronics 204 of Fig. 2, page 2, paragraph #0035) for obtaining recording data representing the content of the event;

a data storage device (tape 212 of Fig. 2, page 2, paragraph #0035) for storing data, including recording data; and

a system controller (microcontroller 214 of Fig. 2, page 2, paragraphs #0035 and #0036) that causes, in response to the specification of a non-contemporaneous mark by the user, the data storage device to store marking data associating the non-contemporaneous mark with recording data obtained at a marked time different from the marking time at which the non-contemporaneous mark was specified by the user.

However, Kwoh et al does not specifically disclose the claimed "wherein the marking data defines a confidence level that represents the certainty of the user that the marked recording data is the recording data that the user desires to mark".

Abecassis teaches a variable-content video retriever having means for marking data defines a confidence level that represents the certainty of the recorder that the marked recording data is the recording data that the recorder desires to mark (cols. 8-9).

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate segmenting the video signal into G, PG, PG-13, R, NC-17 rating segments as taught by Abecassis into Kwoh et al's system in order to prevent an unauthorized viewer to watch recorded video signal.

Regarding claim 2, Kwoh et al discloses the claimed wherein the marking means is adapted to enable specification of a retrospective mark that is associated with recording data obtained at a marked time prior to the marking time at which the retrospective mark was specified by the user (pages 2-3, paragraphs # 0036 and #0037).

Regarding claim 3, Kwoh et al discloses the claimed wherein the marking means is adapted to enable specification of a predictive mark that is associated with recording data obtained at a marked time subsequent to the marking time at which the predictive mark was specified by the user (pages 2-3, paragraphs #0036 and #0037).

Regarding claim 4, Kwoh et al discloses the claimed wherein the marking data defines the marking time and a duration of time, the marked time being the time different from the marking time by the amount of the duration of time (page 2, paragraph #0035 and pages 4-5, paragraph #0055).

Regarding claim 5, Kwoh et al discloses the claimed wherein the marking data defines the marking time directly (page 2, paragraph #0035).

Regarding claim 7, Abecassis teaches the claimed wherein the value of the confidence level defines a range of time relative to the marked time (cols. 8-9).

Regarding claim 8, Kwoh et al discloses the claimed wherein the marking data further defines a range of time relative to the marked time (page 2, paragraph #0035 and pages 4-5, paragraph #0055).

Regarding claim 10, Kwoh et al discloses the claimed wherein the marking means further comprises:

means for indicating that a voice mark is to be imminently specified (page 2, paragraph # 0035); and

means for identifying a voice mark (page 2, paragraphs #0035 and #0036), the means for identifying operable in response to an indication that a voice mark is to be imminently specified.

Regarding claim 11, Kwoh et al discloses the claimed wherein the recording unit is portable (page 2, paragraph #0034).

Regarding claim 13, Kwoh et al discloses the claimed wherein the data acquisition device further comprises a visual data acquisition device (the monitor 232 of Fig. 2, page 2, paragraph #0035).

Regarding claim 14, Kwoh et al discloses the claimed wherein the data acquisition device further comprises an audio data acquisition device (the microphone 224 of Fig. 2, page 2, paragraph #0035).

Regarding claim 17, Kwoh et al discloses the claimed wherein the multiple types of marks include one or more marks indicating a level of importance or interest of the content which the marked recording data represents (pages 2-3, paragraphs #0036 and #0037 and pages 4-5, paragraph #0055).

Regarding claim 18, Kwoh et al discloses the claimed wherein the multiple types of marks include one or more marks indicating a characteristic of the content which the marked recording data represents (pages 2-3, paragraphs #0036 and #0037 and pages 4-5, paragraph #0055).

Regarding claim 19, Kwoh et al discloses the claimed wherein the multiple types of marks include one or more marks indicating the beginning or end of activity of interest (pages 2-3, paragraphs #0036 and #0037 and pages 4-5, paragraph #0055).

Regarding claim 20, Kwoh et al discloses the claimed wherein the multiple types of marks include one or more marks indicating the recording conditions (pages 2-3, paragraphs #0036 and #0037 and pages 4-5, paragraph #0055).

Regarding claim 21, Kwoh et al discloses the claimed wherein the multiple types of marks include one or more marks indicating the user's state of mind (page 2, paragraph #0035).

Regarding claim 29, Kwoh et al discloses the claimed means (page 2, paragraph #0035) for analyzing the recording data; and means (page 2, paragraphs #0032 and #0035 and page 3, paragraph #0040) for changing the meaning of a mark based on the analysis of the recording data.

Regarding claim 30, Kwoh et al disclosed the claimed means (microphone 224 of Fig. 2, page 2, paragraph #0035 and page 3, paragraph #0040) for obtaining data other than recording data; and

means for changing the meaning of one or more marks based on the data other than the recording data (page 2, paragraph #0035 and page 3, paragraph #0040).

Regarding claim 31, Kwoh et al discloses the claimed one or more marking tokens (page 2, paragraphs #0032 and #0035) for enabling a person to specify a corresponding type of mark, each marking token adapted to enable physical separation of the marking token from the control interface device.

Regarding claim 35, Kwoh et al discloses the claimed wherein the system controller causes, in response to the specification of a mark by the user, operation of the recording unit in a predetermined manner in accordance with the type of the mark (page 2, paragraphs #0032 and #0035).

Regarding claim 36, Kwoh et al discloses the claimed wherein at least one mark indicates a level of importance or interest of the content which the marked recording data represents (page 2, paragraph #0035).

Regarding claim 41, Kwoh et al discloses the claimed wherein the means (voice title 222 of Fig. 2, page 2, paragraph #0035) for producing a mark further comprises means for producing a mark and/or supplementing or modifying an existing mark based on the value of, or an analysis of, data acquired by the recording unit; and

wherein the recording unit further comprises means (voice title 222 of Fig. 2, page 2, paragraph #0035) for acquiring non-visual, human perceptible data other than recording data; and the means for producing a mark and/or supplementing or modifying an existing mark produces, supplements or modifies based on the value of, or an analysis of, the none-visual, human perceptible data other than the recording data (voice title 222 of Fig. 2, page 2, paragraph #0035).

Regarding claim 44, Kwoh et al discloses the claimed wherein the means for producing a mark and/or supplementing or modifying an existing mark produces, supplements or modifies based on the proximity of the marking time to the marked time (page 2, paragraph #0035).

Regarding claim 45, Kwoh et al discloses for use in a recording unit being used by a user for recording an event, a method (Fig. 2) for non-contemporaneously marking recording data obtained by the recording unit, comprising the steps of:

identifying the specification of a non-contemporaneous mark of the specified type(voice title 222 of Fig. 2, page 2, paragraph #0035); and

in response to an identification of the specification of a non-contemporaneous mark, storing marking data associating the non-contemporaneous mark with recording data obtained at a marked time different from the marking time at which the non-contemporaneous mark was specified (page 2, paragraphs #0035 and #0036). However, Kwoh et al does not specifically disclose the claimed "wherein the marking data defines a confidence level that represents the certainty of the user that the marked recording data is the recording data that the user desires to mark".

Abecassis teaches a variable-content video retriever having means for marking data defines a confidence level that represents the certainty of the recorder that the marked recording data is the recording data that the recorder desires to mark (cols. 8-9).

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate segmenting the video signal into G, PG, PG-13, R, NC-17 rating segments as taught by Abecassis into Kwoh et al's system in order to prevent an unauthorized viewer to watch recorded video signal.

Regarding claim 46, Kwoh et al discloses the claimed wherein:

the step of identifying further comprises identifying the specification of a retrospective mark (voice title 222 of Fig. 2, page 2, paragraph #0035); and

the step of storing further comprises storing marking data associating the retrospective mark with recording data obtained at a marked time prior to the marking time at which the non-contemporaneous mark was specified (page 2, paragraphs #0035 and #0036).

Regarding claim 47, Kwoh et al discloses the claimed wherein:

the step of identifying further comprises identifying the specification of a predictive mark (voice title 222 of Fig. 2, page 2, paragraph #0035); and

the step of storing further comprises storing marking data associating the predictive mark with recording data obtained at a marked time subsequent to the marking time at which the non-contemporaneous mark was specified (page 2, paragraphs #0035 and #0036).

Regarding claim 48, Kwoh et al discloses the claimed wherein the marking data defines the marking time and a duration of time, the marked time being the time different from the marking time by the amount of the duration of time (page 2, paragraph #0035 and pages 4-5, paragraph #0055).

Regarding claim 49, Kwoh et al discloses the claimed wherein the marking data defines the marking time directly (page 2, paragraph #0035).

Claim 51 is rejected for the same reason as discussed in claim 7 above.

Regarding claim 52, Kwoh et al discloses the claimed wherein the marking data further defines a range of time relative to the marked time (page 2, paragraph #0035 and pages 4-5, paragraph #0055).

Regarding claim 53, Kwoh et al discloses the claimed wherein the step of identifying further comprises:

Identifying an indication that a voice mark is to be imminently specified (page 2, paragraph # 0035); and

identifying a voice mark (page 2, paragraphs #0035 and #0036) in response to an indication that a voice mark is to be imminently specified.

5. Claims 37-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwoh et al (US 2002/0031331 A1) in view of Abecassis ('814) as applied to claim 36 above, and further in view of Cruz et al ('032).

Regarding claim 37, the combination of Kwoh et al and Abecassis discloses all the claimed features of the instant invention as discussed in claim 36 above except for providing the claimed wherein the system controller causes recording data corresponding to the at least one mark to be compressed in accordance with the level of importance or interest represented by the mark.

Cruz et al teaches a system and method for recording, playing back and searching multimedia event wherein video, audio and text can be searched and retrieved having means for indicating that a voice mark is to be imminently specified (col. 6, line 55 to col. 7, line 37) and that the system controller causes recording data corresponding to the at least one mark to be compressed in accordance with the level of importance or interest represented by the mark (col. 6, lines 37-54).

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the searching apparatus as taught by Cruz et al into Kwoh et al's system in order to searching the desired audio signal in multimedia data.

Regarding claim 38, Cruz et al discloses the claimed wherein the system controller causes compression of recording data to be reduced after the predetermined amount of time (col. 6, lines 37-54).

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6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kwoh et al (US 2002/0031331 A1) in view of Abecassis ('814) as applied to claim 11 above, and further in view of Horio et al ('876).

Regarding claim 12, the combination of Kwoh et al and Abecassis discloses all the features of the claimed invention as discussed in claim 11 above except for providing means for mounting one or more components of the recording unit on the body of the user.

Horio et al teaches a electronic camera having means for mounting the recorder on the person of the recorder (Fig. 5) to ease the user in carrying the recorder from one place to another.

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate means for mounting the recorder on the person of the recorder as taught by Horio et al into Kwoh et al's system in order to ease the user in carrying the recorder from place to place.

7. Claims 22-23 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwoh et al (US 2002/0031331 A1) in view of Abecassis ('814) as applied to claims 15 and 41 above, and further in view of Murphy et al (US Patent No. 6,282,362 B1).

Regarding claim 22, the combination of Kwoh et al and Abecassis discloses all the features of the claimed invention as discussed in claim 15 above except for providing wherein the multiple types of marks include one or more privacy marks.

Murphy et al teaches digital memory storage has an additional advantage over conventional video or film recording of images and locations in that encryption of the

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image and location data may be done in such a way that the data could be securely protected against subsequent alteration, for example, by locking the recorded image/location data file against rewriting, thereby providing a more defensively robust legal record (col. 6, lines 56-62).

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the capability of encrypting (one or more privacy marks) the digital data recorded on the digital memory storage as taught by Murphy et al into Kwoh et al's system in order to securely protected against subsequent alteration of the recorded data.

Regarding claim 23, Murphy et al teaches the claimed wherein the one or more privacy marks includes a mark that indicates that the marked part of the recording is to be erased (col. 6, lines 56-62).

Regarding claim 43, Murphy et al also teaches the digital data recording unit 102 having the claimed wherein the means for acquiring data other than recording data further comprises a position sensing device (geographical position detector (GPD) 110 disclosed in col. 8, lines 45-54) for storing video data and position data.

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the capability of recording the position data along with the image signal as taught by Murphy et al into Kwoh et al's system in order to increase the flexibility of the system of Kwoh et al by recording position data along with the image video signal.

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8. Claims 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwoh et al (US 2002/0031331 A1) in view of Abecassis ('814) as applied to claim 1 above, and further in view of Konishi ('381).

Regarding claim 24, the combination of Kwoh et al and Abecassis discloses all the features of the instant invention as discussed in claim 1 above except for providing the claimed wherein the multiple types of marks include one or more marks indicating different recording units.

Konishi teaches that, with the electronic camera, it is possible to easily record various other data, such as date of photographing, shutter speed, aperture value, frame number, place of photographing, name of photographer and object, and various kinds of memo data or the like, on the same recording medium on which the object image information is recorded, by converting the data to electric signals so that, in the scientific field, the system can be study by using said various other data (col. 1, lines 35-68).

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the capability of recording data such as date of photographing, shutter speed, aperture value, frame number, place of photographing, name of photographer and object, and various kinds of memo data or the like on the same recording medium along with the image data as taught by Konishi into Kwoh et al's system in order to determining whether to improve the system of Kwoh et al by studying said data.

Regarding claim 25, Konishi further teaches the claimed wherein the multiple types of marks include one or more marks identifying the person making the mark (col. 1, lines 35-68).

Regarding claim 26, Konishi discloses the claimed wherein the multiple types of marks include one or more marks identifying a person appearing in the part of the recording represented by the recording data associated with the mark (col. 1, lines 35-68).

9. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kwoh et al (US 2002/0031331 A1) in view of Abecassis ('814) as applied to claim 41 above, and further in view of Nickles ('335).

The combination of Kwoh et al and Abecassis discloses all the features of the instant invention as discussed in claim 41 above except for providing wherein the means for acquiring data other than recording data further comprises a physiological monitoring device; and the means for producing a mark and/or supplementing or modifying an existing mark produces, supplements or modifies based on the value of, or an analysis of, physiological monitoring data.

Nickles teaches, in hospital for diagnostic and research purposes, a device for the multiplexing of time varying amplitude physiological data signals with the signals that are provided to a data processing computer from the photomultiplier tubes of a gamma ray camera (col. 1, lines 13-23 and col. 2, lines 52-63).

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the capability of multiplexing of time varying amplitude

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physiological data signals with the signals that are provided to a data processing computer from the photomultiplier tubes of a gamma ray camera as taught by Nickles into Kwoh et al's system in order to study the image signal by using the physiological data.


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thai Tran whose telephone number is (571) 272-7382.

The examiner can normally be reached on Mon. to Friday, 8:00 AM to 5:30 PM.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TTQ

  
THAI TRAN  
PRIMARY EXAMINER